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OFFICE OF PETITIONS

In re Patent No. 6,939,604	:	
Guyot-Sionnest et al.	:	
Issue Date: September 6, 2005	:	LETTER REGARDING
Application No. 09/694,090	:	PATENT TERM ADJUSTMENT
Filed: October 19, 2000	:	
Atty Docket No. 7814/43	:	

This letter is in response to the papers entitled "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," the first filed March 31, 2005, and the second filed November 4, 2005. In accordance with their duty of candor and good faith to the U.S. Patent and Trademark Office, patentees advised the Office at the time of the mailing of the notice of allowance and on issuance of the patent that the indicated patent term adjustment may have extended the patent by too many days.

Both requests for reconsideration of the patent term adjustment (at the time of mailing of the notice of allowance and on the face of the patent) are granted.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **zero (0)** days.

On February 2, 2005, the Office mailed the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term

adjustment to date is 5 days. Prior to a decision being rendered in response to applicants' letter filed March 31, 2005, on September 6, 2005, the application matured into U.S. Patent No. 6,939,604, with a revised patent term adjustment of 16 days.

A review of the record confirms that the initial and revised determinations of Patent Term Adjustment were greater than patentees were entitled to. The initial determination of patent term adjustment of 5 days should have been reduced, pursuant to § 1.704(b), by an additional 217 days. Applicants took in excess of three months to file a response to both the Notice to File Missing Parts of Application mailed December 15, 2000 and the final rejection mailed July 25, 2003. Applicants did not file a complete and proper response to the Notice to File Missing Parts until July 17, 2001, three months and 124 days later. Likewise, applicants did not file a request for continued examination (RCE) in response to the final rejection until January 26, 2004, three months and 93 days later. Given these additional reductions, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days.

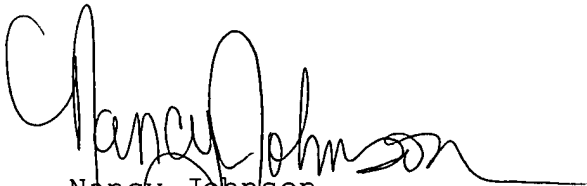
Furthermore, after the mailing of the notice of allowance, a period of adjustment of 11 days was entered for Office delay in issuing the patent. However, after the mailing of the notice of allowance, applicants filed drawings on July 5, 2005. Pursuant to § 1.704(c)(10), a period of reduction of 64 days should have also been entered (for the period beginning on July 5, 2005 to September 6, 2005, the date of issuance of the patent). Considering the further adjustment, in light of the further reduction, the patent should have issued with a revised patent term adjustment of zero (0) days.

In view thereof, the notice of allowance should have included a determination of patent term adjustment of zero (0) days. In addition, the patent should have issued with a revised patent term adjustment of zero (0) days.

As these letters were submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b) or 1.705(d). The Office thanks patentees for their good faith and candor in bringing these matters to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ZERO (0)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PAIR Screen
Copy of DRAFT Certificate of Correction